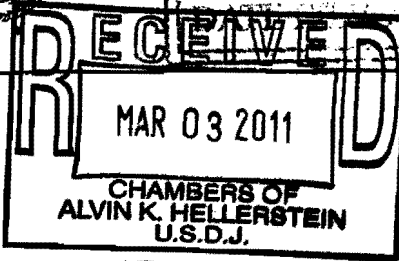




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U.S. Department of Justice

United States Attorney
Southern District of New York



86 Chambers Street
New York, New York 10007

March 3, 2011

*Motion granted, but no further keeping
will be granted. Time & expense is
enlarged to 4/18/11. Time to
reply is enlarged to 4/18/11 (mail)
May 4, 2011. 3/3/11
Alk*

BY FACSIMILE

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street, Room 1050
New York, New York 10007-1312

Re: ACLU, et al., v. Department of Defense, et al., No. 04 Civ. 4151 (AKH)

Dear Judge Hellerstein:

We write respectfully to request an extension of time of approximately six weeks, until April 18, 2011, to file the Government's response to plaintiffs' supplemental memorandum of law in support of their motion for contempt and sanctions, in which they ask this Court to hold the CIA and/or specific individuals in contempt, among other remedies. At a status conference held on January 14, 2011, the Court established a deadline of February 25, 2011, for the Government to file its response to plaintiffs' supplemental contempt memorandum. However, as plaintiffs required additional time to file their supplemental memorandum, that deadline was extended accordingly to March 8, 2011. This is the Government's first request for an extension of the deadline. Plaintiffs have kindly consented to an extension of four weeks, but do not consent to this request for a six-week extension. While the Government recognizes that it is requesting a lengthy extension, this request is necessitated by a number of factors described below.

First, undersigned counsel are simultaneously working on several other issues in this case. Specifically, the Government's appellate brief concerning the parties' fourth and fifth cross-motions for summary judgment is due to the Second Circuit tomorrow, March 4. The Government intends to file redacted and classified versions of its brief, as well as a joint appendix, special appendix, and classified appendix. Moreover, undersigned counsel are presently drafting the Government's cross-motion for summary judgment regarding the DoD photos. As with plaintiff's motion to hold the CIA and/or individuals in contempt, high-level consultation and coordination among various Government officials is required on that issue.

In addition to pressing matters in this action, undersigned counsel are facing impending deadlines in several other matters, including additional Second Circuit filings, an impending preliminary injunction, and multiple depositions.

Next, the Government's primary contact at the CIA is scheduled to be out of the country from March 24 to April 10 (which would mean that the Government's response would be due while he is out of the country if only a four-week extension, rather than a six week extension, is granted), and lead counsel is scheduled to be out of the country from March 14 to March 18.

Finally, the Government requires additional time in order to undertake the necessary coordination and consultation that is required to respond to the Court's inquiries made at the January 14, 2011 status conference, and the issues raised in plaintiffs' supplemental contempt memorandum. In order to properly respond to the Court's concerns and plaintiffs' arguments, undersigned counsel must coordinate and consult with high-level Government officials in the Department of Justice.


The Government thus requires a six-week extension of time – until April 18, 2011 – to respond to plaintiffs' supplemental contempt brief. With a six-week extension, plaintiffs' reply brief would be due April 25, 2011. The Government is committed to diligently working towards resolving all remaining issues in this seven year old litigation.

We thank the Court for considering this request.

Respectfully,

PREET BHARARA
United States Attorney

By:



TARA La MORTE
AMY A. BARCELO
Assistant United States Attorneys
Telephone: (212) 637-2746/6559

cc: Alexander Abdo, Esq.
aabdo@aclu.org